

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

LUIS GRANADOS-SARRIA a/k/a)
LUIS R. GRANADOS,)
)
Plaintiff,)
)
v.) NO. CIV-11-319-D
)
ENOGENX LLC an OG&E ENERGY CORP.)
COMPANY a/k/a OG&E; and OXFORD)
GLOBAL RESOURCES, INC.,)
)
Defendants.)

ORDER

Before the Court is Plaintiff's motion [Doc. No. 25] to strike an affirmative defense in the Amended Answer of Defendant Oxford Global Resources, Inc. ("Oxford"). Oxford timely responded to the motion, and Plaintiff filed a reply.

Plaintiff asks the Court to strike paragraph 22 of Oxford's Amended Answer. In that paragraph, Oxford "reserves the right to subsequently assert other affirmative defenses of which it may become aware in this action." Amended Answer [Doc. No. 21] at ¶22. Plaintiff contends that the purported reservation is legally insufficient, as the Federal Rules of Civil Procedure do not provide a means of reserving affirmative defenses. *See Thomas v. Oreck Vacuums*, 2010 WL 2868844, at *3 (D. Utah July 20, 2010) (unpublished opinion). A defendant's ability to add defenses is governed by Rule 15 of the Federal Rules of Civil Procedure, which authorize a party to seek leave to amend a pleading. *Henson v. Supplemental Health Care Staffing Specialists*, 2009 U.S. Dist. LEXIS 127642, at *5 (W.D. Okla. July 30, 2009) (unpublished opinion).

In its response to the motion, Oxford agrees that paragraph 22 of its Amended Answer may be stricken. However, it correctly argues that the striking of that paragraph does not preclude it from

seeking leave to amend to assert any additional affirmative defense that may become known to it during discovery in this case. If leave to amend is requested, the Court will consider the request according to the standards applicable to Rule 15. Subject to these limitations, the motion [Doc. No. 25] is granted. Paragraph 22 of Oxford's Amended Answer is stricken, without prejudice to Oxford's right to seek leave to amend to assert additional affirmative defenses as this action proceeds.

IT IS SO ORDERED this 2nd day of November, 2011.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE